

HOUSE BILL 644

M3

2lr2629
CF SB 947

By: **Delegates Oaks and Niemann**

Introduced and read first time: February 8, 2012

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2012

CHAPTER _____

1 AN ACT concerning

2 **Environment – Reducing the Incidence of Lead Poisoning**

3 FOR the purpose of altering the application of certain provisions of law relating to
4 reducing lead risk in housing to apply to certain property constructed before a
5 certain date; authorizing the Department of the Environment or a local health
6 department to order a certain abatement in ~~any residential~~ certain property
7 under certain circumstances; authorizing the Department to enforce the terms
8 of a certain abatement order in a certain manner; establishing a certain
9 rebuttable presumption; providing that the presumption may be rebutted by
10 ~~clear and convincing~~ a preponderance of the evidence; altering a certain annual
11 fee for certain rental property; ~~authorizing the Department to administer a~~
12 ~~certain program consistent with certain federal regulations; requiring a certain~~
13 ~~vendor of certain property to deliver to a certain purchaser a certain~~
14 ~~lead-contaminated dust test under certain circumstances; declaring the intent~~
15 ~~of the General Assembly regarding certain compliance with certain provisions of~~
16 ~~law relating to reducing lead risk in housing~~ authorizing certain regulations
17 adopted by the Department to include certain standards and procedures for
18 certain abatement involving the renovation, repair, and painting of
19 lead-containing substances; altering a certain definition; and generally relating
20 to reducing the incidence of lead poisoning.

21 BY repealing and reenacting, without amendments,

22 Article – Environment

23 Section 6–801(a) and 6–843(a)(1)

24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2007 Replacement Volume and 2011 Supplement)

2 BY repealing and reenacting, with amendments,
 3 Article – Environment
 4 Section ~~6–801(b), 6–822, 6–843(a)(2), 6–1001(b), and 6–1003, and 6–1004~~
 5 Annotated Code of Maryland
 6 (2007 Replacement Volume and 2011 Supplement)

7 BY adding to
 8 Article – Environment
 9 Section ~~6–830.1; and 6–1002.1 to be under the amended subtitle “Subtitle 10.~~
 10 ~~Accreditation of Lead Paint Abatement and Renovation Services”~~
 11 Annotated Code of Maryland
 12 (2007 Replacement Volume and 2011 Supplement)

13 ~~BY adding to~~
 14 ~~Article – Real Property~~
 15 ~~Section ~~10–711~~~~
 16 ~~Annotated Code of Maryland~~
 17 ~~(2010 Replacement Volume and 2011 Supplement)~~

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Environment**

21 6–801.

22 (a) In this subtitle the following words have the meanings indicated.

23 (b) (1) “Affected property” means:

24 (i) A property constructed before ~~1950~~ **1978** that contains at
 25 least one rental dwelling unit; ~~or~~

26 **(ii) ON AND AFTER JANUARY 1, 2015, A PROPERTY**
 27 **CONSTRUCTED BEFORE 1978 THAT CONTAINS AT LEAST ONE RENTAL UNIT; OR**

28 ~~(ii)~~ **(iii)** Any residential rental property for which the owner
 29 makes an election under § 6–803(a)(2) of this subtitle.

30 (2) “Affected property” includes an individual rental dwelling unit
 31 within a multifamily rental dwelling.

32 (3) “Affected property” does not include property exempted under §
 33 6–803(b) of this subtitle.

1 6-822.

2 (a) The provisions of this subtitle do not affect:

3 (1) The duties and obligations of an owner of an affected property to
4 repair or maintain the affected property as required under any applicable State or
5 local law or regulation; or

6 (2) The authority of a State or local agency to enforce applicable
7 housing or livability codes or to order lead abatements in accordance with any
8 applicable State or local law or regulation.

9 (b) (1) Notwithstanding § 6-803 of this subtitle, following an
10 environmental investigation in response to a report of a lead poisoned person at risk,
11 **THE DEPARTMENT OR** a local jurisdiction, **INCLUDING THE LOCAL HEALTH**
12 **DEPARTMENT**, may order an abatement, as defined in § 6-1001 of this title, in any
13 residential property, **CHILD CARE CENTER, FAMILY CHILD CARE HOME, OR**
14 **PRESCHOOL FACILITY.**

15 (2) No provision of this Act may be construed to limit the treatments
16 which may be encompassed by an order to abate lead hazards.

17 (c) **(1)** Whenever there is a conflict between the requirements of an
18 abatement order issued by a State or local agency to an owner of an affected property
19 and the provisions of this subtitle, the more stringent provisions of this subtitle and of
20 the abatement order shall be controlling in determining the owner's obligations
21 regarding the necessary lead hazard reduction treatments that shall be performed in
22 the affected property that is subject to the abatement order.

23 **(2) THE DEPARTMENT MAY ENFORCE THE TERMS OF AN**
24 **ABATEMENT ORDERED BY A LOCAL JURISDICTION OR LOCAL HEALTH**
25 **DEPARTMENT IN A CIVIL OR AN ADMINISTRATIVE ACTION.**

26 **6-830.1.**

27 **(A) THERE IS A REBUTTABLE PRESUMPTION THAT A PERSON AT RISK**
28 **WITH ELEVATED BLOOD LEAD DID NOT INGEST LEAD IN AN AFFECTED**
29 **PROPERTY IF THE OWNER OF AN AFFECTED PROPERTY:**

30 **(1) HAS GIVEN TO THE TENANT THE NOTICES REQUIRED BY §§**
31 **6-820 AND 6-823 OF THIS SUBTITLE; AND**

32 **(2) WAS IN COMPLIANCE WITH:**

33 **(I) THE REGISTRATION PROVISIONS OF PART III OF THIS**
34 **SUBTITLE; AND**

1 **(II) THE APPLICABLE RISK REDUCTION STANDARD AND**
 2 **RESPONSE STANDARD UNDER § 6-815 OR § 6-819 OF THIS SUBTITLE AND THE**
 3 **RISK REDUCTION SCHEDULE UNDER § 6-817 OF THIS SUBTITLE.**

4 **(B) THE PRESUMPTION ESTABLISHED UNDER SUBSECTION (A) OF THIS**
 5 **SECTION MAY BE REBUTTED BY ~~CLEAR AND CONVINCING A PREPONDERANCE OF~~**
 6 **THE EVIDENCE.**

7 6-843.

8 (a) (1) Except as provided in this subsection and subsection (b) of this
 9 section, and in cooperation with the Department of Housing and Community
 10 Development, the State Department of Assessments and Taxation, and other
 11 appropriate governmental units, the Department shall provide for the collection of an
 12 annual fee for every rental dwelling unit in the State.

13 (2) The annual fee for an affected property is ~~[\$15]~~ **\$30.**

14 ~~Subtitle 10. Accreditation of Lead Paint Abatement AND RENOVATION Services.~~

15 ~~6-1001.~~

16 (b) “Abatement” means a set of measures [designed to] THAT eliminate or
 17 reduce lead-based paint hazards in residential, public, or commercial buildings,
 18 bridges, or other structures or superstructures in accordance with standards
 19 established by the Department which may include:

20 (1) The removal of lead-based paint and lead-contaminated dust, the
 21 containment or encapsulation of lead-based paint, the replacement or demolition of
 22 lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated
 23 soil; [and]

24 (2) All preparation, cleanup, disposal, and postabatement clearance
 25 testing activities associated with these measures; AND

26 **(3) THE RENOVATION, REPAIR, AND PAINTING OF A**
 27 **LEAD-CONTAINING SUBSTANCE IN A RESIDENTIAL, PUBLIC, OR COMMERCIAL**
 28 **BUILDING BUILT BEFORE 1978.**

29 ~~6-1002.1.~~

30 ~~THE DEPARTMENT MAY ADMINISTER A RENOVATION, REPAIR, AND~~
 31 ~~PAINTING PROGRAM CONSISTENT WITH THE ENVIRONMENTAL PROTECTION~~

1 ~~AGENCY'S RENOVATION, REPAIR AND PAINTING RULE, 40 C.F.R. 745,~~
 2 ~~SUBPART E.~~

3 6-1003.

4 (a) ~~{The} EXCEPT AS OTHERWISE PROVIDED IN § 6-1002.1 OF THIS~~
 5 ~~SUBTITLE, THE~~ Department shall adopt regulations to carry out the provisions of this
 6 subtitle.

7 (b) Regulations adopted under this subtitle may include:

8 (1) Initial and continuing standards and procedures for accreditation,
 9 including education, training, examination, and job performance standards;

10 (2) Standards and procedures for renewal of accreditation;

11 (3) Standards and procedures for modification, suspension, or
 12 revocation of accreditation;

13 (4) Different standards and procedures for different lead paint
 14 abatement services;

15 **(5) STANDARDS AND PROCEDURES FOR ABATEMENT INVOLVING**
 16 **THE RENOVATION, REPAIR, AND PAINTING OF LEAD-CONTAINING SUBSTANCES,**
 17 **INCLUDING A REQUIREMENT FOR LEAD-DUST TESTING;**

18 ~~(5)~~ **(6)** Recognition of accreditation or similar approvals of persons
 19 by other governmental entities; and

20 ~~(6)~~ **(7)** Such other provisions as may be necessary to effectuate the
 21 purposes of this subtitle.

22 (c) The Department shall review and revise its certification and other
 23 regulations under this subtitle as necessary to ensure continued eligibility for federal
 24 funding of lead-hazard activities in the State.

25 (d) The Department shall set reasonable fees for the accreditation of persons
 26 who provide lead paint abatement, ~~RENOVATION, OR RENOVATION TRAINING~~
 27 services sufficient to cover the Department's direct and indirect costs of administering
 28 this subtitle.

29 ~~6-1004.~~

30 (a) ~~There is a Lead Accreditation Fund.~~

~~(b) (1) All fees collected under § 6-1003(d) and fines and penalties imposed under § 6-1005 of this subtitle shall be deposited in the Lead Accreditation Fund.~~

~~(2) The Department may apply for and accept any funds or grants from any federal, State, local, or private source for credit to the Fund that might assist with development, establishment, administration, and education and enforcement activities of the lead paint abatement AND RENOVATION services accreditation [program] PROGRAMS under this subtitle.~~

~~(c) The Department shall use the Lead Accreditation Fund for activities by the Department that are related to processing, monitoring and regulating the accreditation of lead paint abatement services, and for program development of these activities.~~

~~(d) (1) The Lead Accreditation Fund shall be a continuing, nonlapsing special fund, and is not subject to § 7-302 of the State Finance and Procurement Article.~~

~~(2) The State Treasurer shall hold and the State Comptroller shall account for the Accreditation Fund.~~

~~(3) The Accreditation Fund shall be invested and reinvested. Any investment earnings shall be paid into the Accreditation Fund.~~

~~Article — Real Property~~

~~10-711.~~

~~(A) THIS SECTION APPLIES TO THE SALE OF PROPERTY ON WHICH A DWELLING BUILT BEFORE 1978 IS LOCATED.~~

~~(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AT LEAST 7 DAYS BEFORE SETTLEMENT OF A CONTRACT FOR THE SALE OF PROPERTY, A VENDOR SHALL DELIVER TO EACH PURCHASER THE RESULTS OF A LEAD CONTAMINATED DUST TEST PERFORMED FOR THE PROPERTY IN ACCORDANCE WITH THE PROCEDURES AND STANDARDS ADOPTED UNDER § 6-816 OF THE ENVIRONMENT ARTICLE.~~

~~(C) A PURCHASER MAY WAIVE IN WRITING THE RIGHT TO RECEIVE THE RESULTS OF A LEAD CONTAMINATED DUST TEST.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that on or before January 1, 2013, an owner of affected property that was built between 1950 and 1978 shall be in compliance with:~~

1 ~~(a) the notice requirements under §§ 6-820 and 6-823 of the Environment~~
2 ~~Article;~~

3 ~~(b) the registration provisions of Title 6, Subtitle 8, Part III of the~~
4 ~~Environment Article;~~

5 ~~(c) the risk reduction standard under § 6-815(a) of the Environment Article;~~
6 ~~and~~

7 ~~(d) any other requirement under Title 6, Subtitle 8 of the Environment~~
8 ~~Article, applicable to affected properties.~~

9 SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
10 effect ~~October~~ June 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.